

Application Serial No. 09/807,704
Reply to Office Action of March 27, 2008

PATENT
Docket No. CU-2513

REMARKS/ARGUMENTS

Reconsideration is respectfully requested.

Claims 35-54 are pending before this amendment. By the present amendment, claims 35 and 53 are amended. No new matter has been added.

Support for the amendment in claim 35 of —adding a pre-treatment compound to the material prior to mechanically treating the material, wherein said pre-treatment compound is at least one of the group consisting of an enzyme, a solvent, an emulsion-bursting material, and an emulsion-inhibiting solution, wherein the enzyme is selected from the group consisting of cellulase, collagenase and lysozyme, wherein the solvent is hexane, wherein the emulsion-bursting material is salt— can be found, inter alia, in the specification at page 5 lines 13-24.

Support for the amendments in claim 53 of — recording a first yield of oil from the thawed biological material at the first temperature; recording another yield of oil from the thawed biological material at the another temperature— can be found, inter alia, in example 2 of the specification at pages 14-15, and in particular page 14 line 37.

Support for the amendments in claim 53 of — obtaining an optimum temperature— can be found, inter alia, in example 2 of the specification at pages 14-15 and in particular page 14, line 38.

In the office action (page 2), claims 53-54 stand rejected under 35U.S.C. §112 ¶2 as being indefinite.

The applicant respectfully disagrees and contends that the claims, as they now stand, are in condition for allowance.

The applicant has subsequently amended claim 53 to specifically use terminology from within the specification to remove the basis for this rejection. In particular the limitation "estimating a first yield" has been deleted and replaced with "recording a first yield" which clearly has support within the specification (See e.g., example 2 and page 14 line 37). Further the limitation of "calculating another yield of oil" has been amended into the limitation "recording another yield of oil" which also clearly has support within the specification. (See e.g., example 2 and page 14 line 37). Finally, the limitation of "optimizing an optimum temperature" has been amended into

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the limitation "obtaining an optimum temperature". Therefore, the applicant believes that the basis for this rejection has been removed. Accordingly, the examiner is respectfully requested to withdraw this indefinite rejection to claims 53-54.

In the office action (page 3), claims 35-52 stands objected under 35 U.S.C. § 103(a) as being unpatentable over Jannson (No. Patent Application Number 1993 3009) in view of Keyes (US 4,713,335).

For the reasons presented previously on December 18, 2007 and below, the applicant respectfully traverses this obviousness rejection of claims 35-52, and submits that the claims, as they now stand, are in allowable form.

The applicants have subsequently amended claim 35 to require an additional step of – (c) adding a pre-treatment compound to the material prior to mechanically treating the material, wherein said pre-treatment compound is at least one of the group consisting of an enzyme, a solvent, an emulsion-bursting material, and an emulsion-inhibiting solution, wherein the enzyme is selected from the group consisting of cellulase, collagenase and lysozyme, wherein the solvent is hexane, wherein the emulsion-bursting material is salt--.

Jannson at most teaches a process of separating elements from biological material to obtain high yields of non-denatured protein, fats or lipids subsequent to the steps of freezing and mechanically treating the biological material by using low-temperatures to avoid denaturing the protein. The applicant can find nothing within Jannson that teaches or suggests, *inter alia*, adding a pre-treatment compound to the material prior to mechanically treating the material. Since Jannson doesn't teach a pre-treatment compound, it follows that Jannson is also silent with regards to pre-treatment compound that include such things as enzymes, a solvent, an emulsion-bursting material, and an emulsion-inhibiting solution.

Keyes at most teaches a naturally occurring protein that is grossly denaturing proteins and partially renaturing those proteins to cross link these protein with an inhibitor of a selected enzyme to produce a chemically modified protein with activity of a selected enzyme. In this denaturing/renaturing/linking/modifying scheme Keyes does use viscosity measurements to monitor protein denaturation and/or determine the

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denaturing temperature within a material. The applicant can find nothing within Keyes that teaches or suggests, *inter alia*, adding a pre-treatment compound to the material prior to mechanically treating the material. Since Keyes doesn't teach a pre-treatment compound, it then follows that Keyes is also silent with regards to pre-treatment compound that include such things as enzymes, a solvent, an emulsion-bursting material, and an emulsion-inhibiting solution.

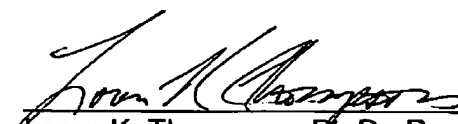
As per MPEP §2143.03, the combined references must teach or suggest all of the claimed limitations. Since Jannson and Keyes, in whole or in combination, do not teach or suggest, *inter alia*, the newly added limitation noted above and not found in claim 35, then Jannson and Keyes, in whole or in combination, cannot support an obviousness rejection to claim 35. Claims 36-52 ultimately depend upon claim 35 and thus incorporate by reference all of the limitations contained therein. Therefore, the applicants believe that the basis for this obviousness rejection has been removed and respectfully request that the examiner withdraw this obviousness rejection to claims 35-52.

For the reasons set forth above, the applicant respectfully submits that claims 35-54, now pending in this application, are in condition for allowance over the cited references. Accordingly, the applicants respectfully request reconsideration and withdrawal of the outstanding rejections and earnestly solicit an indication of allowable subject matter.

This amendment is considered to be responsive to all points raised in the office action. Should the examiner have any remaining questions or concerns, the examiner is encouraged to contact the undersigned attorney by telephone to expeditiously resolve such concerns.

Respectfully submitted,

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